IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 828 of 2000

SC.143/1997 of ASSISTANT SESSIONS COURT, OTTAPPALAM
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PETITIONER/REVN. PETITIONER:

HAMZA HAJI, S/O. VEERAN HAJI,
TRIKKADERI VILLAGE, OTTAPPALAM TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS/RESPONDENTS
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1. **V.P. HAMZA, S/O. MUHAMMED,**
VADAKKEPEEDIKAKKAL HOUSE,
PAVUKKONAM.

2. **MUHAMMED, S/O.MOIDUTTY HAJI,**
VADAKKEPEEDIKAKKAL HOUSE, PAVUKKONAM.

3. **STATE OFKERALA, REP. BY PUBLIC PROSECUTOR,**
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. MNS ASSOCIATES
PUBLIC PROSECUTOR SRI. NOBLE MATHEW

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Criminal R.P.No.828 OF 1998 ()

Dated this the 4th day of December, 2007

O R D E R

This revision application is filed by an unfortunate father who lost his daughter at a young age in suspicious circumstances. She was married on 22.1.1989 to the 1st accused. 2nd accused is his father. Out of the wedlock, three children were born. After seven years of the marriage, brother of the 1st accused got married after getting a huge dowry. It is the case of the petitioner that his daughter was harassed for getting more dowry, and due to that, she committed suicide on 24.5.1996. PWs.1 and 2 deposed regarding the information of the death of their daughter. They saw a mark on the neck and they suspected regarding her death and informed the matter to the police on the same day and case was registered originally for 'unnatural death' and there after case was registered against the husband and his father under Section 498 A read with Section 34 of the Indian Penal Code alleging harassment

and abetment of suicide. Even though PWs.1 and 2 stated that she was being harassed after the marriage of the brother of A1 which took place only $1^1/_2$ months before the date of death. But court came to the conclusion that if such a harassment was there, they would not have invited the brother of A1 and the wife to their house on the previous day of incident. There are no adequate evidence for abutment to suicide or harassment of the wife. We cannot convict a person on the basis of presumption or feeling of a father who lost the daughter at her husband's house. There should be some clear evidence. The fact that petitioner's elder son invited brother of A1 and the newly married wife to their house as per the custom was accepted during cross examination of PW1. In the above circumstances, court found that there is no chance for such a harassment on the deceased so as to lead her to suicide. In a revision application filed against order of acquittal, when there are compelling reasons, court will not interfere. I am of the view that finding of the trial court is not perverse or there is any patent illegality so as to interfere in the order of acquittal and it cannot be stated that the view taken by the trial court is

not a possible view. In the above circumstances, this revision petition is dismissed.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.R.P.828 OF 2000 (B)

O R D E R

4th December, 2007